



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: FOO - 177979

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on November 16, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding FoodShare benefits (FS), a hearing was held on December 6, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's FoodShare benefits should have been discontinued for failing to complete a required interview.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: [REDACTED]  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Kristin P. Fredrick  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was sent a FS renewal notice on September 12, 2016 advising the petitioner that he must complete his renewal by October 31, 2016. The notice listed an incorrect address for the

petitioner at [REDACTED]. The petitioner's correct address is [REDACTED].

3. On October 5, 2016, the petitioner completed an online renewal of his FS benefits.
4. On October 7, 2016, a notice was sent to the petitioner, but again to the wrong address, instructing him to contact the agency to complete an interview by October 17, 2016. The petitioner did not receive this notice either.
5. As a result of not completing the renewal interview, on October 19, 2016, the agency sent the petitioner an About Your Benefits notice advising him that his FS was ending effective November 1, 2016. This notice was also sent to the wrong address and the petitioner never received it.
6. On November 15, 2016 the petitioner contacted the agency to inquire as to the status of his FS and he was advised that his FS had ended due to not completing an interview. An interview was conducted by phone that same date and the petitioner was found eligible for continued FS benefits effective November 16, 2016 with a break of service between November 1 through November 15, 2016.
7. The agency determined that the petitioner was eligible for a FS allotment of \$194 per month. However, the petitioner only received FS benefits in the amount of \$103 in the month of November due to the break in service as a result of his FS closing October 31, 2016.

### **DISCUSSION**

It is possible to reopen a FoodShare case without a new application where a review is completed in the following month due to agency delay in scheduling the interview. *FoodShare Wisconsin Handbook*, §2.2.1.4. Further, the Federal regulations governing FS provide that if an eligible household files a renewal application before the end of the certification period but the renewal process cannot be completed within 30 days after the date of application and/or is delayed beyond the first of the month of what would have been the new certification periods because of agency fault, the "State agency shall provide restored benefits to the household back to the date the household's certification period should have begun had the State agency not erred and the household been able to apply timely." 7 CFR 273.14(e)(1) and (3).

In the present matter, the petitioner testified that he never received the review notices (noted at Findings 2 through 5). When petitioner contacted the agency regarding the status of his FS, it was discovered that the agency had been sending the notices to the wrong address. The renewal interview was not completed by the end of the review month due to the agency's error in sending notices to the wrong address, which resulted in a delay in processing the petitioner's renewal application. Accordingly, the agency should restore the petitioner's FS benefits back to November 1, 2016.

### **CONCLUSIONS OF LAW**

The agency erred by sending notices to the petitioner at an incorrect address resulting in a delay in processing the petitioner's renewal application for FS benefits.

**THEREFORE, it is**

### **ORDERED**

That the matter be remanded with instructions to the county agency to restore the petitioner's eligibility for FS benefits effective back to November 1, 2016 and entitling the petitioner to additional FS benefit funds in the amount of \$89.00 that he missed due to the break in services from November 1, 2016 through November 15, 2016. These actions shall be completed within ten days of the date of this Order.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

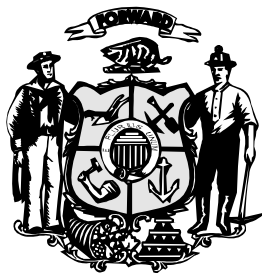
## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 3rd day of January, 2017

\s\_\_\_\_\_  
Kristin P. Fredrick  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 3, 2017.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability